

14 410
Penal: An Element in Social Science.

A PAPER,

PREPARED BY REQUEST,

FOR THE

SIXTH ANNUAL MEETING

OF THE

National Association for the Promotion of Social Science.

HELD IN LONDON, JULY, 1862.

BY RICHARD VAUX.

AMERICAN EDITION.

PHILADELPHIA:

KING & BAIRD, PRINTERS, No. 607 SANSON STREET.

, 1862.



Digitized by the Internet Archive
in 2018 with funding from

This project is made possible by a grant from the Institute of Museum and Library Services as administered by the Pennsylvania Department of Education through the Office of Commonwealth Libraries

Penal: An Element in Social Science.

THERE is no position the Sun holds to the Earth, in which it does not cast a shadow. Civilization cannot reach any state of perfection, which will not present an unilluminated phase of social condition for investigation.

However difficult it may be to penetrate this opaque-ness, and examine the germs and growths which are there indigenous, the demands of Science require persistent efforts towards success.

We may not make it luminous, but by refraction we may understand the life of this darkness.

Christianity in its relations to civilization, or the positive primal influences it has exercised, originating or aiding the development of human knowledge and its consequences, is not now here to be considered. Neither is theologic truth, nor religious formulas by which it is arrived at, involved in the present mode of discussing the theories here presented.

These philosophies have a more appropriate place.

It is asserted, that modification in man's condition produced by civilization, is in itself a creative cause. Whatever the result of such alteration or change may

be, if effected by human means, in so far it is a creation.

Civilization is the consequence of this modifying creative power. Civilization is such a consequence, though in itself not a cause. It is the contribution made by the mind of one age to its successor, thus successively increasing its principal, by compounding the interest gained in the development from transmitted truth, and thus accumulating the force and means to modify and create. It consequently rejects the favoritisms of class,—it belongs to individual effort. It is the outgrowth of intelligence under the influence of its innate and restless desire to grow and gain, to know and expand. Hence it is, that the cumulative acquirement of mind, put into a form appreciable by the sense of philosophy, and tested by its known principles, becomes a new form or a real condition in social, or scientific, or political progress. This is the consequence of a creative power. Whatever then is not of this civilization, is excluded from its influences. It is in the shadow of its advancing form, and marks by the sharp lines which bound it, the fact that civilization is a living reality. The one is change; the other unvitalized and decaying inertia. Thus generally stated, are the deductions from common observation.

While civilization has advanced almost in a geometrical ratio to its predicates, the elementary principles of social science have been outcropping, only

under the most favorable surroundings. The revolutions in States, the conflicts of races, the effects of soil and climate, the antagonism in political polity, have unitedly retarded social development. The ascertainment of the underlying principles on which it was based, and the essential necessities to its enfranchisement from the dead formulas of barbarian systems of communital organism, were not considered as within the scope of scientific sagacity. Philosophy was occupied with then more pressing or more congenial duties.

The earliest demonstration of the existence of a social status in communital organism, was the recognition by the whole, of the inchoate individual rights of each constituent. The necessity which compelled labor, gave to its gains a value equivalent to the life of the laborer, for that life depended on the productions for its preservation. Thus was the right of property recognized. This right had its antecedent natural right of individual life and liberty, and grew out of a nomadic politics, founded on primeval or original elements. Labor—and its incidents of ownership—was the first principle which civilization revealed and recognized. Occupation—and its incidents—was the foundation of the right of property, which was sanctioned by a necessity known to barbaric times and peoples. Excess of production for life support by one, was exchanged for a like excess in herds or mere increase of another, and thus civilization recognized

the right of possession, property and sale. As correlative to these were individual rights and wrongs. Incident thereto were remedies, to preserve or redress them.

Tracing thus the history which civilization has made, we find it now a complete system of codes, applicable to the numerous outgrowths from the primary principles on which by necessity it rested. The moral, physical, mental and social elements, have expanded into separate departments of a perfect entirety. Thus has civilization become what we now find it, by the aid of a reflected and refracted light, which the cultivated human understanding throws upon human progress. The social element of civilization was self-advanced by the force of circumstances, which made its almost unseen, but inexorable law. There was no present benefit to be realized by attention to this subject, as age on age was growing and gaining profit in material or physical sciences. Neither time nor inducement were available for the mere gratification from the alternating abstract theories, which had to offer no tangible proximate benefit, from the outlay of crude intellectual efforts. In the practical or physical, civilization deduced hypothesis from alternating conditions of familiar facts, and thus effective means were prepared by which systems were established. Combinations thus formed, enlarged the circumference for investigation, and aids were thus secured by which a known result could be predicated of theory in its exemplification.

Successful efforts gave courage, faith, and benefits. The strife for a realization of either theory, was but a rivalry to afford the surest and best return, which added, under all circumstances, to the advantage of mankind.

In the accumulation of mere material civilization, was laid the foundation of scientific knowledge. Wealth, excess of production over the supply of ordinary wants, had been created, and communities and States found means to devote to the attainment of a higher civilization. Science and art, were in the most direct connection or relation with the then condition of society, and with its wealth to be expended. Both partook of a material character. The results gained were of a physical nature; the evidences of their value were practical; they made progress visible, and absorbed for this reason both the accumulation in material and the mind of the age. General civilization had strengthened itself, and become a fixed condition of almost all society. It was a standard for the adjustment of national power. A competition existed between theories and peoples, and systems became antagonistic and controversial.

Rights of persons, rights of property, interchange of commodities, trade, manufactures, arts, letters and science, had each in turn given to the coming age maxims and principles, which, arranged into codes, were taught as essential, and became invested with a power which knowledge was known to possess.

To attain possession of this power, and direct its influence, was then a cause for struggle between classes. Each contestant claimed to have the truest system; and in the trial for the mastery, civilization gained all the advantage, while those involved lost nothing of intrinsic worth. Thus it is when the mind of a people is evoking truth, or seeking it.

Civilization had left undisturbed the religions or faith of countries. Those codes and systems in existence accreted the enlightened religious element. Enfranchised thought turned upon the dogmas of the past, and attempted to separate the truth from the formulas with which unenlightened zeal had enveloped it. Scholastic infallibility had long undisturbed sway, because, thought was not freed from the labor of an absorbing secular occupation. Now, it had a supremacy which was incident to sovereignty, and no contestant to the exercise of its prerogatives was permitted, even under the guards of faith, or its religions. Civilization had now to engage in an ordeal in magnitude and severity, thence—before unknown. It had conquered so long, as its victories were comprehensible by people and beneficial to States. Now, it had to show no practical advantage, as the result of its effort. All its former success had been obtained by the then present, out of the proximate future, and without attention distracted, or force weakened by opposition, in itself powerful and strong, by at least a contemporaneous existence.

For the first time, old ideas were attacked, and on the defensive, became formidable—since they secured the protection and aid of a powerful class in society—both in wealth and mind. The direction civilization was now taking, left behind all the material physical elements of success, and lost the support of the practical and interested, and entered upon a course which had relations only with faith and reason. Abstract truth was to be gained in this contest, and abstract truth was an ideal. This ideal was enshrined in the moral sense of past ages. An unwakened spirit of belief had ignorantly kept watch and ward over it for generations. Once alarmed at the approach of disputatious investigation, the dogmas of this belief aroused the formalists in defence against free thought and its innovations. Civilization had now risen to a higher development, for it was in the sphere of enlightened mind, and its influences and consequences. The struggle well nigh lost all that mankind had gained. Natural and moral philosophy had united with an enfranchised Christianity, to give to civilization its universal empire. It had advanced to a point at which it could rest from its labors, and comprehend its achievements.

The most marked of the consequences which presented itself, was the separation of society into classes—into producers and consumers, thinkers and workers, ignorant and educated, industrious and idle, thrifty and thriftless. This was a consequence, for civilization

could no more successfully elevate mankind to a common level, than a natural level of the earth could give to the habitation of mankind necessary requirements for his existence.

These inequalities in the communital organization, or classyncracies, became most distinctly apparent, and grew into a significance which arrested the attention of philosophic observation. They were elementary in the social economy, as well as relatively important to communital and national existence.

In the careful study of these classes, the causes which subdivide and segregate them from the components of a social entirety, became an object of philosophic interest. It was the foundation of social science.

It has been shown, that every step in the advance of mankind, from the original nomadic to the civilized condition, has been attended by changes in his physical, mental, and social condition. These successive changes have translated parts of his original character into a new phase of its existing life—the same human nature, but so modified as to leave but the faint lines of its aboriginal distinctiveness. The tribe-man of the plain of Moreb, the shepherd on the mountains of Judea, and the savage on the hunting grounds of the New World, as the primal type of organized society, are not to be found under the influences of civilization. Yet the same human nature, translated into a condition new, only by the powerful effects of so powerful a cause. With this new condition, this human nature

has acquired also new forms for development: and with this development, or out of it, have likewise come imperfections, weakness, and evil, as one extreme, of which the benefactions of civilization, constitute the other. These are the shadows of civilized life and light.

As to the physical or material condition of man, need we argue the existence of this fact. The village of tents, the great cities of to-day; the bark canoe, and the iron-clad steamer, demonstrate it. With this material progress, we find man clogged with its evils, evils which spring out directly from it, and only from it. It may be the necessity which growth involves—vigor of one constituent at the cost of it to another. It may be the useless and waste material, which is but the refuse of the action of civilizing mankind. In the mere physical condition, we see the effects of this change unmistakably proved. Longevity is no longer a term in this age applicable to length of days, compared with those of the patriarchal epoch. Civilization, while it has shortened life, has granted to the shortened period which remains, benefits, advantages, and blessings, together with maladies, privations and miseries, contemporaneous.

If these are indisputable truths, it requires analogy and induction to show, that the moral condition of society has been subjected to similar modification. Classes in society which were rejected as causes, became recognized as consequences, of the higher phase of its general intelligence and improvement.

The first basis of social class-growths was wealth, or more properly, wealth was among the most effective forces for combination. It commanded productions, patronized mechanic arts, aided letters and science. It thus became a power, and organized a class. Knowledge attracted mind, made an independent association, of which brain-force was the characteristic, and its attributes and results, influential. These classes co-worked or contended as variable circumstances instigated. Wealth conjoined individuals, knowledge consolidated thinkers. The consequence was, that the members of both wielded an influence, and attracted to themselves a retinue of dependents, and exercised an important control in society. Advantages so desirable, were sought by others, who wanted the same means to secure them. Self-interest, or sordid or ignoble motives inspired these to effort, if not for rivalry, at least an equality. Their ethics, in such an agreement or speculation, were not of the purest teaching, and in the livery of virtue, vices became by degrees admixed with schemes for the attainment of their ends. That which a few volunteers agreed to do by their individually contributed means, and which united them into a class, now was accomplished by a legalized association called a "corporation." This last invention for the greed-supply of avarice and interest, may be claimed by the most civilized age, as a token of its achievements, but it has cost morals all it has gained for capital.

Hence we find in the highest rank of society, among those under the best condition of social civilization, an unhealthiness which exists in the moral organization, as we also find, forms of physical disease which belong to the same class, and which luxuries, and comforts, and ease, superinduce. We find, too, an acute form of these class maladies, in vices, depravity, and a total absence of moral force. In each stratum, from the highest to the lowest grade in communital constituency, the same moral phenomena are discoverable. The only distinction which seems to exist, is in terms describing, not the type, but the disease itself. In one it is denominated vice, in the other it is called crime—it becomes alarming in either, when it threatens to attack artificial or conventional classisms, the functional powers of which are, in very truth, too weak to resist its enervating effects, or undergo the operation of the healthful remedies of honest examination.

As we descend from the high positions in society which civilization claims to have built, the shadow it throws back deepens, till we come to the great level of the masses.

A sketch has been rapidly drawn of the rise and progress of the modifying power of civilization. The consequences of its creative forces have been pointed out. The results reached are discernible by the reflective or observant. They meet the notice, since they cannot fail to attract it, in the broad light sur-

rounding and radiated from, luminous objective truths, thus attained.

There are however, in the shadows which lie behind, and produced by this very civilization, subjects of equal importance to the welfare of man, requiring investigation.

However distasteful this truth is, let it not be shunned, because it detracts from the pride of our knowledge attained, that we are ignorant of the causes of the vitality which originates in this dark side of communal existence.

Among the problems for modern demonstration in social science, is the cause of crime and the best punitive treatment of criminals. The growing intensity of the light of civilization, has thrown a deep shade over motives or causes which operate upon that proportion of populations which are subjected to the physical remedies of human justice. To discover these causes, reduce them into classes, and subject them to the operation of comprehensible principles, is becoming a necessity; if remedial influences are to be applied to their existence and consequences. The same necessity requires the same labor, for the equally important purpose of ascertaining the nature and organization of these disturbing elements in all social combinations. This may well be denominated a branch of social science. It deals directly with human nature under a dwarfed, abnormal or diseased development. It meets it contaminated by physical causes, by hygienic

wrongs, by animal predominations, by association with degrading impulses. It finds such a nature the sport of circumstances, which direct, if they do not shape, its ends. It recognizes the same nature, morbid from depressing influences; weak in the appreciation of right principles from vicious education; wayward for want of the simplest discipline, either domestic, social or industrial. The moral constitution of this class of the community, is in the deep shadow which high civilization casts on all interests which are not voluntarily co-adjusted to its onward movement, as part of itself.

With but one of the branches of this general subject we are now occupied. To make it clear in expression, we describe it as the abnormal condition of the moral status of individuals or classes—a diseased state of one of their three constitutions, produced by an undue influence of the physical or mental over the depraved moral, developed in a condition usually called “crime,” but more properly or philosophically, moral disease.

Crime, or disease of the moral organization or constitution, is the consequence of motives and acts which violate human and divine laws. These declaratory and prohibitory enactments by society, are for its self-protection and order, and the safety and happiness of each and all its members. If law has this high aim, and meets with the approval of those over whom it

operates, it may be regarded as a perfection of the human mind in securing so important a result.

The laws which regulate the health of individuals, those hygienic and sanitary regulations which protect communities from disease, are but synonyms of the principles and aims of jurisprudence. So, too, of the mental constitution. Thus we find that the purpose of legislation in physical and moral science, is to secure objective health, a positive healthful condition of society, by the prevention and punishment of injurious influences or obnoxious acts. The analogy does not stop at this outline. Physical disease, which is epidemic, constitutional, chronic and contagious, gives to moral disease these prototypical characteristics. In both they are produced by causes which disturb the organic harmony of the system, either violating or impeding the natural operations of established laws. Thus we find the most common form of communital maladies, take a character by attacking the most unprotected and exposed avenues of physical constitutions, and are designated as ordinary disease. In like manner it is observed, that the common form of moral disease or crime, takes its character from the liability of mankind to prove the violability which attaches to personal property. When malignant cases of disease startle the quiet of ordinarily healthful society, it is excited to active efforts to subdue, or prevent their recurrence. So too we see the highest type of moral disease or crime, awaken in the commu-

nity a fear, which demands the most stringent enforcement of preventive and corrective laws.

We have but sketched the broad facial lines of this resemblance, and it will be admitted as a postulate to the proposition, if the less is contained in the greater, the analogy between these proportions is coincident.

We refer to another similarity which is important. The difference in the character and accumulation of disease in dense populations is known. In like manner we find the character and frequency of crimes in these populations almost equivalent. Manufacturing and agricultural people, cities and villages and farm-country, present the same distinctiveness and ratio of disease and crime. We can fairly assume then that the causes of disturbance in the physical and moral, individual and social systems, or constitutions, are found in the diseased condition of each. These causes find their origin in effects of civilization. Medical science has accomplished much in the prevention and cure of physical disease. It has produced classes and schools which teach special hypothesis and treatment. Hygienic and sanitary laws are improved, ameliorated, and progressive. Physical health owes a great debt to medical science. Social science is just establishing itself as another outgrowth of civilization. Among the subjects which specially belong to it, is the treatment of crimes, which a highly developed social organism produces, growing up and out of its dark shadows.

To treat this important subject as it demands is now impossible, since we have so imperfect a basis on which to test principles from well ascertained data. Philosophical research has never yet been properly extended, or systematically attempted. Isolated facts, general observations, theoretic suggestions and immature deductions on the most partial and ill-digested basis, meet us only in disconnected form, and from a few sources.

Crime has been looked upon till almost within the circle of our age as a repulsive and forbidding subject, and criminals as a class so abandoned as to be unworthy of social reformatory influences or that scientific treatment which is best adapted to moral disease.

We are left without the knowledge which collected intelligent experience gives, to grope our way with the information we have, guided only by the analogy which we have invoked. States and nations have heretofore taken the most limited, because a purely practical, view of the most convenient mode of dealing with the convict class in their populations. Social economy has had a direct influence on these several modes or systems. That which was cheapest has always been regarded as best, and under this mercenary aspect of the subject, prisons and prisoners have been handed over to the shrewdest management.

Within the last quarter of a century social science has directed its attention to penal systems, and the rapid advance it has made in the reformation of the past is now attracting grave notice in America and Europe.

Thus far we have made no original discoveries as to the soundest system of convict treatment. Consider hence what has been accomplished are results from analogy to the improved treatment of physical diseases, although it has not been admitted. The courage necessary to make so frank an admission, has been either wanting, or its expression has been deemed unwise.

It is indisputably true, however, that the present state of reform in criminal jurisprudence and convict treatment has been based exclusively on the principles of prevention and cure, preventive laws for punishment and example, and penitentiary discipline tending to convict reformation. This is but the type of hygienic and sanitary laws for the prevention of disease, and the most approved curative practice which medical science has sanctioned.

Taking then preventive means and reformatory systems of crime and convicts as they now exist, we come to the consideration of the question, which of both is better adapted to the end?—as we observe their effects as each is administered.

The best system for the prevention of crime is a question for social science to determine, almost exclusively, as it relates to the developed condition of civilization in each State or among populations. The highest and lowest extremes of communital life either in class or masses, must be primarily considered, before the adapted means can be best understood.

The present preventions are mental, moral and industrial education, since these are accompaniments of civilizing progress. It has not yet been ascertained with sufficient certainty how far each has by itself promoted the decrease of criminal offences. Conjoined and wisely co-adapted and judiciously in operation, they will elevate individuals to a higher status in social combinations. But do they not only change the character of the crime committed? Do they eradicate the causes of crime, or decrease them? They are sanitary measures against moral disease, most plainly changing its type, it may be, from a violent to a milder form.

The great want, the urgent necessity which exists, as a principal preventive of crime, is discipline, restraint, subordination, self-control in the youth of populations. A regimen or diet of the moral and constitutional appetites, is the first social present necessity, under the liberalizing and extreme license—producing influence of social freedom or civilization.

From these views the following propositions are deducible :

I.—Original sin, and Divine regeneration or reformation, are not essentially or necessarily connected with the developments of social science.

II.—Civilization is a human primal agency, a creative power, and is recognized as such and so treated in physical and social science.

III.—Modification, or change in social development produced by civilization, is a consequence created by such modifying power.

IV.—Modification or change or improvement in the physical or material condition of man, has so far created this civilized condition.

V.—The like modification in the social status of communities or populations is a condition created by such modification.

VI.—Social science is an outgrowth of civilization, and has yet produced no independent or *sui generis* consequences on peoples. It has not yet penetrated the deep shadow which falls on society, from the body of accumulated material or physical civilization.

VII.—The elementary principles identified with social science are deduced by analogy from those of medical science, and the treatment of social maladies or crimes, is coincident with that of physical disease.

VIII.—Crime is a moral disease, and all laws or systems for its preventive or curative treatment, are deduced from the like treatment and principles of medical systems or laws.

IX.—The analogy between crime and disease is a philosophic deduction, a theory suggested and established by a careful examination of manifestations in the physical and moral constitutions of man.

X.—The basis of all systems for the treatment of physical disease, hygienic or sanitary, for prevention, or remedial or curative, is the same on which rest all codes or principles for the treatment of crime, either preventive or reformatory.

XI.—The present state of social science indicates that self-discipline, control, restraint and subordination of the youth is the moral power wanting in society as a prevention of crime, and to create it, requires the most powerful modifying agency. Education—moral, mental, mechanical and scientific—must be enlarged in its influences, to embrace the teaching of this necessary requirement. The character of the youth must be so modified as to be subjected voluntarily, or by educational means, to discipline, or training,—a voluntary or established moral hygiene.

P A R T I I.

The attempt has been made to show, that civilization in its effects on mankind, has, by its modifying influence, created a new condition in social organism. That so far as this change has been effected, it has been a consequence of a creative power. Involved in this proposition, is the theory, that this change in the whole social condition, outcrops in special modifications. These are demonstrated in natural philosophy, medical and material sciences, mechanic arts and letters. It is then proposed as a postulate, that the same modifications exist in the moral condition of man, and there too this creative power manifests itself. Moral science having yet, being in its infancy, made no *sui generis* or special development of particular or peculiar systems or laws for its government and success, it is asserted that it has taken its principles by analogy from medical systems and laws. That disease being a disturbed condition of the physical constitution, crime is the result of a like condition of the moral constitution. The laws which experience and knowledge enact for the prevention and cure of physical maladies, are typified in those which the same experience and knowledge have adopted in the prevention and reform of crimes and criminals.

It is proposed here to suggest how the cause of crimes discovers itself, as that of disease is detected by the form it assumes.

Crime is then either constitutional, chronic or contagious. It may be thus subdivided: crimes of education, association, of the lusts, of impulse, of the passions—morbid, epidemic, and physical.

These distinctions arise from the effects of civilization on the entirety of the social constituency. They are the germs and growths of the deep shade which lies over any portion of the people not within the influences of civilizing modifications. The cause which conduces to a brutal attack on persons, springs from a stolid moral constitution, unmodified by civilization; while that which is developed in an ingenious effort to prejudice the rights of property, results from an intellectual proficiency, taught by social enlightenment. The cause of each is moral disease, produced or created or modified by civilization. So we see a physical malady of the most disgusting and fatal character in one, and in an other, the same causes, under the ameliorating influences of medical knowledge, take a milder and tractable, and not necessarily a fatal form.

It has been suggested that moral science should attempt a solution of the problem for prevention of crime. As yet no principle or system or means have been devised to successfully accomplish this end. Ingredients of such as are now believed to be competent, can be found valuable preventions, but it requires the incorporation of the principle of discipline, control, self-government, restraint in the youth, to be added and

made efficient, before practical advantages are gained by any.

The treatment of crime as it exists in criminals, or the punitive and reformatory systems now adopted, demand a brief consideration in this general view of social science as applied to moral diseases.

When attention was first directed to this subject, crime was regarded as a normal condition of individuals, and these criminals were not within the reach of any of the modifying influences of social science. Then criminals were merely isolated from society, for arbitrary periods of time, and left in that relation until the expiration of this, to them domestic or foreign exile, in the locality to which they were banished.

So soon as the analogy between crime and disease began to attract the notice of the intelligent observer, efforts were made to ameliorate the condition of convicts. This gave rise to that inchoate reformation in punitive treatment of individuals, which now, by its advance, has gained the rank and name of the science of penitentiary discipline.

Without tracing the progress of this modification or creative power, as applied to penal jurisprudence and crime-cause, essentially an element of social science, it will suffice and conclude these remarks, to speak of the two systems now in operation.

These systems of penitentiary discipline, or prison discipline, are known by the terms or designations

which identify the principles on which they are based. The one is called "The Separate or Pennsylvania System of Penitentiary Discipline"; the other "The Congregate System" of Prison Discipline.

The foundation of the Separate System is that of an approved philosophy. It accepts, if it does not announce, its analogy to the principles, discipline and treatment of physical disease, which science has sanctioned by its theories, and practical proofs of their truth. By this penitentiary discipline, each prisoner is treated individually; separated from convict contact and contamination; freed from the depressing and degrading consequences of association with other co-criminals; strengthened to effort for regaining lost moral and social health; brought within the direct personal influence of reformatory or curative treatment, and its most salutary modifying causes; subject to improvement from earnest effort of instruction in mind and handicrafts; placed in the most accessible relation to those creative forces, which in operation change the moral constitution. Thus each convict is surrounded by reformatory processes, and the effect on his crime and its cause is watched, as physical disease is watched, to test the remedies, and resort to such as best suit the purpose of his punishment. Thus each prisoner is individualized, and the discipline is individualized, and by this system the cause of his crime, the constitutional moral infirmities which exist to produce it, are attempted to be removed. It is sought thus to remove him from

under the shadow of those social institutions which have failed to benefit him, and left him behind in their progressive march. If it does not enable him to reach at once their advantages, it at least aids him in the effort to gain them, points the way, furnishes him with some requisites for success, and when at last attained, renders him able to participate in their benefits.

Such a system has at least a claim of merit, as it rests on a philosophy which elevates it to a position worthy of the name of science.

The Congregate System masses the prisoners; treats them in classes; associates them; retards improvement by presenting to them the idea of degradation; depresses them by the tainted atmosphere of the moral disease which surrounds them; reminds them of their condition; recalls constantly to their minds the consciousness of their diseased moral constitution; gives them opportunity to compare their social maladies; informs them that they are a class, and they thus by association know who belong to this segregated portion of society. It may and does improve individuals, as patients in a hospital are cured, while others, for want of approved special treatment, die. This system is irrational, since it rests on the principle of class-treatment as the opposite of special individual treatment. As well might a number of persons, afflicted with various physical diseases, be placed in an apartment, and there receive only one remedial application, without regard

to the peculiar disease of each patient. How far such a course of medical practice would be justified, is a question which common sense readily would answer. If the analogy is even plausible between physical and moral disease, then the moral treatment of convicts based on the congregate or class system is liable to question.

The intermediate plan as between these two opposite systems, partakes of neither the benefits of one nor the evils of the other, but so blends them, as to neutralize both. The convict is left to the negative influences which these two principals precipitate, after having in combination, neutralized the curative by the injurious. If his moral constitution has vital force sufficient to overcome his crime-cause; he may reform, if not, his moral disease becomes chronic—a convict, by the weakness of his moral constitution. His life is passed in the deep shadow of high civilization, and there, associating with those like himself, forms a class in society requiring the like preventive measures applied to it, which sanitary laws against diseases, demand, and which science has developed and legislation enforced.

It will not seriously be asserted, that a community which is kept free from disease only by stringent artificial laws of prevention, is the equal of one where salubrity is the positive condition, and consequently, that society which is protected from the crime-class by police supervision is less secure than one exempt from such sources of mischief. The very fact, that a class in

society requires such supervision, is not only pernicious in its effects on the general population, but it is crime creating or inducing in that class itself. It tends to consolidate, combine and render it formidable. It is a dangerous and injurious modification of the moral constitution of this class, and creates evils it was intended to prevent multiplied, if not of so eruptive a character.

The want of carefully prepared statistical information on the subject of crime, its causes, and the essential coincidents of age, education, character and habits of offenders, has been adverted to in these remarks. Now it is, we sensibly feel this want.

It may be asserted, however, that about fifty per centum of criminals taken generally from populations, are under twenty-five years of age. Of their educational, industrial, and moral and social training, we cannot speak with certainty. It can be asserted, however, that to discipline, self-control or restraint, they were rarely subjected. To such preventive influences they have been almost strangers. Their physical, as well as their moral constitutions, have not yet been formed or strengthened to resist alike the attacks of physical and moral disease.

When such individuals are liable to penitentiary discipline, it is contended that the separate or individualized treatment is not only the most philosophical, but curative.

That, if reform is the primary object of penitentiary

discipline, then the separate system presents the most certain means to this end.

It is also contended, that the spirit, purpose, and end of punitive treatment, is to improve, cure or reform those subjected to it. In its effects, it should be remedial if not curative. Individuals, under the application of the discipline of any such system, as well as society itself, into which they are to return, are entitled to these advantages. Society has an equal claim with the individual, to the establishment and proper administration of the best system of punitive laws. This claim is not only strengthened, but raised to the dignity of a moral obligation self-imposed, to secure for the coming age all the benefits which such a system or code of laws can give. The youth-class of offenders growing as it does, and important as it becomes in social development, finds its usefulness or uselessness depending on this cardinal element in social civilization.

Thus medical science, and the systems and laws for the promotion of individual and general health,—social science and the systems and laws for the attainment of personal and crime-class reformation and restitution to social favor,—moral science and the systems and laws for the discovery of equalization of the best remedies and preventives of moral disease, are directing their energies to refract into the deep shadows of civilization, a light by which to understand and remedy the evils there indigenous.

It has been attempted in these cursory remarks, to show, that social, like medical and mechanical knowledge, has been the acquirement gained from the modifying creative force of civilization; and that these and other sciences, are its productions. Natural philosophy is yet developing the truths which nature is yielding to persistent effort. Social science has derived from analogy, from medico-scientific attainments, the primary principles which are thus far applied to its ends. Penal science is an important ingredient in the system, to be established for communital health, security, growth and gain.

These views are expressed, in the hope that some suggestion presented, may direct attention to a subject of significant importance to mankind. The freedom of thought, and the license of liberty, which are marking our age, require that preventive as well as corrective laws for social stability, should be based on principles sanctioned as well as recognized by the necessities of an advancing civilization.

Philadelphia, May, 1862.

